

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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HONEEDEW INVESTING LLC,

Plaintiff,

19-CV-08951 (JPC) (VF)

-against-

ORDER

JOSE ABADI,

Defendant.

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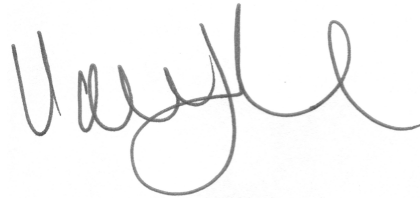
VALERIE FIGUEREDO, United States Magistrate Judge:

Plaintiff filed a motion for substitution on November 6, 2023. See ECF No. 80. According to the case law, a proper party for substitution is either a “representative of the deceased party’s estate” or a “successor of the deceased party.” Garcia v. City of N.Y., No. 08-CV-2152 (RRM) (MDG), 2009 WL 261365, at *1 (E.D.N.Y. Feb. 4, 2009). Under N.Y. Estate Powers & Trusts Law § 1-2.13, a trustee is not a personal representative. See N.Y. Est. Powers & Trusts Law § 1-2.13 (McKinney) (“A personal representative is a person who has received letters to administer the estate of a decedent. The term does not include an assignee for the benefit of creditors, or a committee, conservator, curator, custodian, guardian, trustee or donee of a power during minority.”). A “successor” of a deceased party is defined as “a ‘distributee’ of the [decedent’s] estate if the estate has been distributed at the time the motion for substitution is made.” See Bruyere v. Cmm’r of Soc. Sec., No. 19-CV-624, 2020 WL 1904494, at *1 (W.D.N.Y. Mar. 4, 2020) (quoting Garcia v. City of N.Y., No. 08-CCV-2152 (RRM) (MDG), 2009 WL 261365, at * 1 (E.D.N.Y. Feb. 4, 2009)). Here, Plaintiff has not provided information as to the distribution of Abadi’s estate into this irrevocable trust at the time of its substitution motion to determine if JP Morgan Trust Company of Delaware is a distributee and therefore a proper party for substitution.

Plaintiff is directed to provide more information to support that JP Morgan Trust Company of Delaware, the Trustee of Jose Abadi's trust, is a proper successor under Federal Rule of Civil Procedure 25. Plaintiff should do so by **May 13, 2024**.

SO ORDERED.

DATED: New York, New York
April 19, 2024

A handwritten signature in black ink, appearing to read 'Valerie Figueredo', is written over a horizontal line.

VALERIE FIGUEREDO
United States Magistrate Judge